

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JPMORGAN CHASE BANK, N.A.,	)	
as Administrative Agent,	)	
	)	
Plaintiff,	)	
	)	No. 2:05-CV-74141
v.	)	
	)	Hon. Avern Cohn
LARRY J. WINGET and the	)	
LARRY J. WINGET LIVING TRUST,	)	
	)	
Defendants.	)	
	)	

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**ORDER WITH RESPECT TO DEFENDANTS' AMENDED COUNTERCLAIM**

Plaintiff JPMorgan Chase Bank, N.A., as Agent, commenced this action against Defendants Larry J. Winget and the Larry J. Winget Living Trust. Plaintiff's Complaint seeks declaratory and other relief on the basis of a guaranty and related instruments executed by Defendants in October, 2002. Defendants filed an "Amended Counterclaim" naming as counter-defendants the following entities: J.P. Morgan Chase & Co.; Bank One Corporation; and Bank One, N.A. Defendants also filed a demand for trial by jury of the Amended Counterclaim.

Plaintiff has filed a Motion to Dismiss the Amended Counterclaim and a Motion to Strike the Jury Demand filed in connection with the Amended Counterclaim. The Court has considered the briefs and supplemental materials filed by the parties in connection with such motions, and heard the arguments of counsel at a hearing conducted on May 10, 2006.

For the reasons stated on the record on May 10, 2006,

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. The causes of action stated in the Amended Counterclaim may not proceed as counterclaims to the causes of action stated in the Complaint.

2. The Court dismisses the Amended Counterclaim without prejudice. The Court orders that Defendants file a new complaint against Plaintiff and/or other third parties. This new case is a companion to Case No. 05-74141 and the Clerk will reassign this case to this Judge's docket. No additional filing fee will be required.

3. The Court's dismissal of the counterclaim is without prejudice to the right of Defendants to seek trial by jury in the new case they elect to file or the right of Plaintiff or any third parties to file an appropriate motion to strike any such jury demand.

SO ORDERED.

Dated: June 29, 2006

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 29, 2006, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160

APPROVED FOR ENTRY AS TO FORM:

<u>s/ William T. Burgess</u> DICKINSON WRIGHT, PLLC 500 Woodward Ave., Ste. 4000 Detroit, MI 48226 (313) 223-3500 <a href="mailto:wburgess@dickinsonwright.com">wburgess@dickinsonwright.com</a> (P36922)	<u>s/ John E. Anding by consent</u> DREW, COOPER & ANDING 125 Ottawa Avenue, N.W., Ste. 300 Grand Rapids, MI 49503 (616) 454-8300 <a href="mailto:janding@dcadvocate.com">janding@dcadvocate.com</a> (P30356)
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